

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Stephen S. Gray, Plan Administrator of Dehon, Inc. v. Chapter 11
University of Alaska

Adversary Proceeding 04-04040
Judge Henry J. Boroff

CLERK'S CERTIFICATION FOR TRANSMITTAL
OF RECORD ON APPEAL

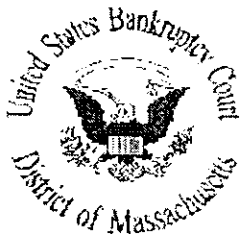
05-40130 JLT

I, JAMES M. LYNCH, Clerk of the United States Bankruptcy Court for the District of Massachusetts, do hereby certify that the annexed documents are copies of the original papers as described in the accompanying Designation of Record and constitute the Record on Appeal in the case entitled and numbered 04-4040 Stephen S. Gray v. University of Alaska. Transcript will be forwarded upon receipt.

IN TESTIMONY WHEREOF, I HEREUNTO SET
MY HAND AND AFFIX THE SEAL OF THIS
COURT, AT WORCESTER, IN THE DISTRICT OF
MASSACHUSETTS, THIS 8th DAY OF AUGUST.

Date: 8/8/05

James M. Lynch
Clerk, U.S. Bankruptcy Court



By the Court,

Sheila Smith

Deputy Clerk
(508) 770-8910

Receipt of the documents in the above-entitled case as described in the Designation of Record is hereby acknowledged this 8 day of August, 2005.

This case has been assigned No. 05-40132.

Kathleen Wessett
DEPUTY CLERK

Erik LeRoy, P.C.
 500 L St., Ste 302
 Anchorage, Alaska 99501
 (907) 277-2006
 Attorney for University of Alaska Fairbanks

05-40130 JLT

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF MASSACHUSETTS

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In re:	:	Chapter 11 Proceedings
	:	
DEHON, INC.,	:	case no. 02-41045 (HJB)
(fka Arthur D. Little, Inc.)	:	
	:	
Debtor	:	
<hr/>		X
STEPHEN S. GRAY, Plan Administrator	:	Adversary Proceeding 04-04040
of Dehon, Inc.	:	
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
UNIVERSITY OF ALASKA	:	
	:	
Defendant	:	
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NOTICE OF APPEAL

The University of Alaska Fairbanks, appearing through Erik LeRoy, P.C., under 28 U.S.C. § 158(a) and Federal Rule of Bankruptcy Procedure 8001, hereby appeals the Bankruptcy Court's order entered June 27, 2005 (Docket No. 19), which denied The University of Alaska Fairbanks' motion to dismiss adversary proceeding. The order denying a motion to dismiss, if based on the 11th Amendment to the United States Constitution, is immediately appealable under the collateral order doctrine, *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 143, 113 S.Ct. 684, 687,

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 7/6/05

121 L.Ed. 2d 605 (1993), and jurisdiction is granted by 28 U.S.C. § 158(a)(1), *In re Value-Added Communications, Inc.*, 216 B.R. 772, 774 (N.D. Tex. 1997).

The names of all parties to this appeal and the names, addresses and telephone numbers of the respective attorneys are as follows:

1. The University of Alaska Fairbanks:

Erik LeRoy P.C.
500 L St., Ste 302
Anchorage, Alaska 99501
(907) 277-2006

2. Stephen S. Gray, Plan Administrator for Dehon, Inc.:

Douglas B. Rosner
Neil V. McKittrick
Christian J. Urbano
GOULSTON & STORRS, P.C.
400 Atlantic Avenue
Boston, MA 02110-3333
(617) 482-1776

The names of other interested parties to this Appeal and the names, addresses and telephone numbers of their respective attorneys are as follows:

4. The Office of the United States Trustee

Richard T. King
Assistant U.S. Trustee
446 Main St., 14th Floor
Worcester, MA 01608
(508) 793-0555

5. The Office of United States Attorney General
The Honorable Alberto Gonzales
Department of Justice
950 Pennsylvania, N. W.
Washington, D. C. 20530-0001
(202) 353-1555

Dated: July 6, 2005

Erik LeRoy, P.C.
Attorney for University of Alaska Fairbanks
Alaska Bar No. 8310130

/s/ Erik LeRoy

Certificate of Service

I certify under penalty of perjury that on July 6, 2005 a true and correct copy of the above document was served on

Douglas B. Rosner
Assistant U S Trustee

by first class mail if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Erik LeRoy

Erik LeRoy

Erik LeRoy, P.C.
500 L St., Ste 302
Anchorage, Alaska 99501
(907) 277-2006
Attorney for University of Alaska Fairbanks

05-40130

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re:

DEHON, INC.,
(fka Arthur D. Little, Inc.)

Debtor

Chapter 11 Proceedings

case no. 02-41045 (HJB)

05-40130JLT

STEPHEN S. GRAY, Plan Administrator
of Dehon, Inc.

Plaintiff

vs.

UNIVERSITY OF ALASKA

Defendant

Adversary Proceeding 04-04040

NOTICE OF ELECTION TO PROCEED TO
UNITED STATES DISTRICT COURT

University of Alaska Fairbanks, appearing through Erik LeRoy, P.C., has appealed the Bankruptcy Court's order entered June 27, 2005, which denied University of Alaska Fairbanks' motion to this dismiss adversary proceeding. University of Alaska Fairbanks elects to have the appeal heard by the United States District Court for the District of Massachusetts under 28 U.S.C. § 158(c)(1).

(23)
7/6/05

Dated July 6, 2005.

Erik LeRoy, P.C.
Attorney for University of Alaska Fairbanks
Alaska Bar No. 8310130

/s/ Erik LeRoy

Certificate of Service

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Douglas B. Rosner
Assistant U S Trustee

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/s/ Erik LeRoy

Erik LeRoy

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re: Stephen S. Gray, Plan Administrator of Dehon, Inc. v. Chapter
University of Alaska 04-04040
Judge Henry J. Boroff

NOTICE OF FILING OF APPEAL TO DISTRICT COURT

05-40180 *[Handwritten signature]*

A Notice of Appeal and an Election to have the appeal heard in the United States District Court were filed on **JULY 6, 2005** in the above case/proceeding.

Please refer to 28 U.S.C. § 158(c)(1), Federal Rule of Bankruptcy Procedure 8001 et seq., and Local Rule 203 of the U.S. District Court. Also, pursuant to Federal Rule of Bankruptcy Procedure 8006 the Appellant must file with the Clerk of this Court, a Designation of the Record on Appeal and a Statement of the Issues to be presented on Appeal, within ten (10) days of the filing of the:

1. Notice of Appeal, or
2. Entry of an Order granting leave to appeal, or
3. Entry of an Order disposing of the last timely motion outstanding of a type specified in Rule 8002(b),

whichever is **later**.

A copy of the Designation and Statement shall be served by the Appellant on the Appellee.

The Appellee may file a Designation of Additional Papers to be included in the Record on Appeal within ten (10) days after service of the Appellant's Designation and Statement.

Upon the filing of Designation(s) of Record and Statement of Issues on Appeal, the Appellant (and Appellee if additional papers have been designated) shall, provide the Clerk with copies of all papers which have been designated for inclusion in the Record on Appeal within twenty-five (25) days of the issuance of this notice.

It is the duty of the parties to insure that the Record on Appeal is complete. The Clerk of the Bankruptcy Court will transmit the Record on Appeal as assembled by the parties.

Date: 7/7/05

James M. Lynch
Clerk, U.S. Bankruptcy Court

By the Court,

Yingmay Steele
Deputy Clerk
(508) 770- 8963

(24)

United States Bankruptcy Court
District of Massachusetts

In re:

DEHON, INC.,

Debtor

Chapter 11
Case No. 02-41045-HJB

JLT

05-40130

STEPHEN S. GRAY,
AS PLAN ADMINISTRATOR OF
DEHON, INC.,

Plaintiff

Adversary Proceeding
No. 04-04040-HJB

v.

UNIVERSITY OF ALASKA,

Defendant

ORDER

For the reasons set forth in this Court's Memorandum of Decision of even date,
the Defendant's motion to dismiss the complaint is DENIED.

DATED: June 27, 2005

By the Court,



Henry J. Boroff
United States Bankruptcy Judge

(19)

Erik LeRoy, P.C.
500 L St., Ste 302
Anchorage, Alaska 99501
(907) 277-2006
Attorney for University of Alaska Fairbanks

05-40130 JLT

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In re:	:	Chapter 11 Proceedings
DEHON, INC.,	:	case no. 02-41045 (HJB)
(fka Arthur D. Little, Inc.)	:	
Debtor	:	
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STEPHEN S. GRAY, Plan Administrator	:	Adversary Proceeding 04-04040
of Dehon, Inc.	:	
Plaintiff	:	
vs.	:	
UNIVERSITY OF ALASKA	:	
Defendant	:	
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Appellant's Statement of Issue on Appeal

Whether the Bankruptcy Court erred in determining that the Bankruptcy Clause of the U.S. Constitution allows Congress to abrogate a state's sovereign immunity, protected under the Eleventh Amendment, by permitting a trustee to sue a state in an adversary action in bankruptcy court in which he seeks from a state a monetary recovery.

Dated July 18, 2005.

Erik LeRoy, P.C.
Attorney for University of Alaska Fairbanks
Alaska Bar No. 8310130

/s/ Erik LeRoy

Certificate of Service

I certify under penalty of perjury that on July 18, 2005 a true and correct copy of the above document was served on

Douglas B. Rosner
Assistant U S Trustee

by first class mail if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Erik LeRoy

Erik LeRoy

Erik LeRoy, P.C.
 500 L St., Ste 302
 Anchorage, Alaska 99501
 (907) 277-2006
 Attorney for University of Alaska Fairbanks

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF MASSACHUSETTS

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DEHON, INC.,	:	case no. 02-41045 (HJB)
(fka Arthur D. Little, Inc.)	:	
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STEPHEN S. GRAY, Plan Administrator	:	Adversary Proceeding 04-04040
of Dehon, Inc.	:	
Plaintiff	:	
vs.	:	
UNIVERSITY OF ALASKA	:	
Defendant	:	
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05-40130 *TL*

Appellant's Designation of Record on Appeal

Pursuant to B.R. 8006, appellant here files this designation of record on appeal.

Appellant requests that the following items from this adversary proceeding be included in the record on appeal in this case:

<i>Date</i>	<i>D.E.</i>	<i>Description</i>
1/22/04	1	Complaint
6/3/04	6	UAF Motion to Dismiss
6/3/04	7	UAF Memorandum in Support of Motion to Dismiss

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 7/18/05

<i>Date</i>	<i>D.E.</i>	<i>Description</i>
9/21/04	8	Plan Administrator's Opposition to UAF Motion to Dismiss
11/30/04	10	UAF Response to Plan Administrator's Opposition
1/5/05	14	UAF's Supplemental Authority
1/14/05	15	Court's Certificate pursuant to 28 USCA 2403
1/14/05	16	Plan Administrator's Surreply
6/27/05	18	Memorandum Decision
6/27/05	19	Order Denying UAF Motion to Dismiss

Dated July 18, 2005.

Erik LeRoy, P.C.
Attorney for University of Alaska Fairbanks
Alaska Bar No. 8310130

/s/ Erik LeRoy

Certificate of Service

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Douglas B. Rosner
Assistant U S Trustee

by first class mail if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Erik LeRoy

Erik LeRoy

Erik LeRoy, P.C.
500 L St., Ste 302
Anchorage, Alaska 99501
(907) 277-2006
Attorney for University of Alaska Fairbanks

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In re:	:	Chapter 11 Proceedings
DEHON, INC.,	:	case no. 02-41045 (HJB)
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Debtor	:	
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STEPHEN S. GRAY, Plan Administrator	:	Adversary Proceeding 04-04040
of Dehon, Inc.	:	
	:	
Plaintiff	:	
	:	
vs.	:	
UNIVERSITY OF ALASKA	:	
	:	
Defendant	:	
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05-40130 JH

Appellant's Supplemental Designation of Record on Appeal

Pursuant to B.R. 8006, appellant here supplements its designation of record on appeal by requesting that a transcript of the October 26, 2005 hearing on the University's Motion to Dismiss be included in the record on appeal in this case.

Dated July 28, 2005.

Erik LeRoy, P.C.
Attorney for University of Alaska Fairbanks
Alaska Bar No. 8310130

/s/ Erik LeRoy

Certificate of Service

I certify under penalty of perjury that on July 28, 2005 a true and correct copy of the above document was served on

Douglas B. Rosner
Assistant U S Trustee

by first class mail if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Erik LeRoy

Erik LeRoy